

ASSEMBLY, No. 1021

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Assemblymen DiMaio, Space, Wirths and Auth

SYNOPSIS

“Home Business Jobs Creation Act”; classifies certain home businesses as permitted accessory uses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning municipal land use and supplementing chapter
2 55D of Title 40 of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the “Home-
8 Based Jobs Creation Act.”

9

10 2. The Legislature finds and declares:

11 a. Corporate restructuring and the rise of telecommunications
12 have led to an increase in the number of individuals working out of
13 their homes. According to the Small Business Administration
14 Office of Advocacy, small businesses represent 99.7% of all United
15 States employer firms and roughly 15 million small businesses
16 across the country are operated from people’s homes. Additionally,
17 home businesses make up roughly 50% of all small businesses. In
18 these economically challenging times, the need for home businesses
19 can be expected to increase;

20 b. According to the United States Department of Labor’s
21 Bureau of Labor Statistics, approximately 25% of workers worked
22 at home at least occasionally in 2017-2018, and 15% of wage and
23 salary workers had days they worked only at home during that same
24 period. Additionally, between 2005 and 2015, the number of
25 American employees working remotely at least part of the time
26 increased by 115%. The trend toward increased working from
27 home has been accelerating for years. Furthermore, due to the
28 recent SARS-CoV-2 novel coronavirus (“COVID-19”) pandemic,
29 which has resulted in an increase of office closures across the
30 country, the need for increasing support and access to home
31 businesses by the Legislature has never been more important;

32 c. Many of these home businesses are operating in violation of
33 outmoded local ordinances. Many zoning ordinances permit home
34 businesses of recognized professionals, such as doctors, lawyers,
35 and accountants, but prohibit other for-profit home businesses under
36 certain circumstances;

37 d. Most zoning ordinances enacted in the 1960s and 1970s
38 were based on good intentions and focused on the protection of
39 residential neighborhoods from the negative effects of industry; this
40 occurred at a time when more than 75% of the working public then
41 pursued businesses outside of the home;

42 e. One-third of all men and women who are downsized from
43 their jobs start their own home businesses, which they thereafter
44 work for one, two or more years, or until the economy improves.
45 With the impact that current financial downsizing and COVID-19
46 are having on New Jersey employment, it is important to provide a
47 safe-haven for the temporarily unemployed, to enable them to

- 1 provide for their own financial stability and to lessen the load on
2 government to provide for them;
- 3 f. About 25% of newly started home businesses grow to the
4 point where they will become employers and move the business out
5 of the home;
- 6 g. The nation's changing economic structure and technological
7 development have catalyzed the development of home businesses.
8 According to the Partnership for Work at Home, over 90% of such
9 businesses do not create the traffic, pollution, noise, or the safety
10 problems of other industries. New approaches in zoning are needed
11 to ensure that this very important segment of the economy, which
12 may lay the groundwork for the expansion of companies that later
13 grow to "Fortune 100" or "Fortune 500" levels, and which
14 generates many jobs and increased revenues to the State economy,
15 is provided the opportunity for growth. Such growth cannot occur
16 unless the Legislature ensures that home businesses that fall within
17 certain prescribed criteria are permitted as accessory uses in
18 residential zones of municipalities; and
- 19 h. This act is intended to establish State guidelines for
20 municipalities to follow in their treatment of home businesses, in
21 order to carefully balance the interests of home businesses with the
22 needs of the residential area in which they operate.
- 23
- 24 3. For the purposes of this act:
- 25 "Home business" means any activity operated for pecuniary gain
26 in, or directed from, a residential dwelling or unit by one or more
27 persons residing within that dwelling or unit.
- 28 Notwithstanding any municipal ordinance to the contrary, upon
29 the effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill), a home business within a residential zone
31 shall be permitted as an accessory use, not requiring a use variance
32 pursuant to section 57 of P.L.1975, c.291 (C.40:55D-70), provided
33 that:
- 34 a. the activity is compatible with the residential use of the
35 property and surrounding residential uses;
- 36 b. the volume of employees, invitees, or guests who visit the
37 home business is not in excess of what is compatible with
38 residential use in the neighborhood;
- 39 c. there is no outside appearance of a home business including,
40 but not limited to, parking, signs, or lights;
- 41 d. the volume of deliveries, or truck and other vehicular traffic,
42 or parking, is not in excess of what is normally associated with
43 residential use in the neighborhood;
- 44 e. the activity uses no equipment or process that creates noise,
45 vibration, glare, fumes, odors, or electrical or electronic
46 interference, including interference with radio or television
47 reception, detectable by any neighbors;

1 f. the activity does not generate any solid waste or sewage
2 discharge, in volume or type, that is not normally associated with
3 residential use in the neighborhood; and

4 g. the activity does not involve any illegal activity.

5 In the case of a dwelling unit that is part of a common interest
6 ownership community, which is a community in which at least
7 some of the property is owned in common by all of the residents,
8 the provisions of this section shall not be deemed to supersede any
9 deed restriction, covenant, agreement, master deed, by-laws, or
10 other documents that prohibit a home business within a dwelling
11 unit.

12 A municipality shall not be required to amend or modify an
13 existing ordinance pertaining to home businesses so long as no
14 portion of the ordinance is in conflict with the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill).

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17 4. In accordance with the purposes of this act, a municipality
18 may establish, pursuant to ordinance:

19 a. standards to apply to home businesses within residential
20 districts concerning the volume of invitees or guests;

21 b. standards for the volume of delivery or truck traffic and
22 parking that will be deemed acceptable for home businesses in
23 residential districts.

24 Any standards established for home businesses pursuant to this
25 section shall apply to all similar home businesses within the district.

26
27 5. The provisions of this act shall not be construed as limiting
28 in any manner the powers of a municipality to protect the health,
29 safety and welfare of its residents, including the investigation and
30 elimination of nuisances.

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32 6. This act shall take effect on the first day of the sixth month
33 next following enactment.

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36 STATEMENT

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38 This bill would permit a home business to exist in a residential
39 zone as a permitted accessory use, provided that the following
40 conditions are met:

41 (1) the activity is compatible with the residential use of the
42 property and surrounding residential uses;

43 (2) the volume of invitees or guests who visit the residential
44 dwelling or unit is not in excess of what is customary for residential
45 use in the neighborhood;

46 (3) there is no outside appearance of a home business including,
47 but not limited to, parking, signs or lights;

48 (4) the volume of deliveries or truck and other vehicular traffic is

- 1 not in excess of what is normally associated with residential use in the
2 neighborhood;
- 3 (5) the activity uses no equipment or process that creates noise,
4 vibration, glare, fumes, odors, or electrical or electronic interference,
5 including interference with radio or television reception, detectable by
6 any neighbors;
- 7 (6) the activity does not generate any solid waste or sewage
8 discharge, in volume or type, which is not normally associated with
9 residential use in the neighborhood; and
- 10 (7) the activity does not involve any illegal activity.
- 11 The bill would not supersede provisions of the governing
12 documents of a common interest ownership community that prohibit
13 operation of a home business in a dwelling unit within the common
14 interest ownership community.
- 15 The bill would not require a municipality to amend an existing
16 ordinance pertaining to home businesses provided that the ordinance
17 does not contradict the provisions of the bill.
- 18 The bill would allow a municipality, by ordinance, to establish
19 standards for the customary volume of invitees or guests within
20 residential districts, and standards for the volume of delivery or truck
21 traffic that are acceptable within residential districts.
- 22 The bill would not limit the power of a municipality to protect the
23 health, safety and welfare of its residents, including the investigation
24 and elimination of nuisances.